

2010 OUTDOOR DINING PERMIT

Outdoor sidewalk dining, in the Central Business A, Central Business B, Highway Business and Neighborhood Business Districts only, shall be permitted subject to compliance with the following:

(1) Permitted only for the restaurants and deli-style businesses in the Central Business A and B, Highway Business and Neighborhood Business Districts (hereinafter referred to as "applicants"). Permits shall be applied for annually on or before April 1. [Amended 9-1-2009 by L.L. No. 4-2009]

(2) Application for permit.

(a) Applicants shall submit a sworn statement with a fee of \$50 that provides the following information and/or statements:

[1] Where the service shall be provided;

[2] The number of tables and seats;

[3] That the applicant shall comply with all requirements set forth herein;

[4] That the restaurant is in compliance with all other governmental regulations, codes and/or laws;

(b) The sworn statement shall include a copy of this section signed by the applicant as recognition and acceptance of all the terms of this section, the required certificate of insurance and, where applicable, a permit from the New York State Liquor Authority.

(c) Upon submission of a completed application, the Village Clerk shall issue a permit for the requested outdoor sidewalk dining.

(3) Seating for sidewalk service shall not require any additional parking spaces or prompt other zoning requirements or need for variances.

(4) The applicants shall provide for a pedestrian right-of-way on the sidewalk, measured from the inside of the curb where it meets the sidewalk, of at least 36 inches clearance; tables and chairs and other objects, such as menu signs, shall be kept out of the pedestrian right-of way. Clearance for the pedestrian right-of-way must be around obstacles such as signs, benches, garbage cans, handicap cuts and other impediments. Employees may temporarily be within the pedestrian right-of way while performing their duties, such as serving, but may not place objects, such as tray stands, in the pedestrian right-of way. However, employees shall at all times yield to pedestrians within the pedestrian right-of-way.

(5) Applicants shall provide, with the above stated sworn statement, a certificate of insurance with liability limits of at least \$2 million per occurrence and which names the Incorporated Village of Northport, 224 Main Street, Northport, New York, as an additional insured who will be notified by the

insurance company or agent in the event of a lapse of coverage. This insurance is required to remain in effect for the duration of the sidewalk dining activities and to cover claims arising out of said activities; the Village must be notified in the event of any threatened or actual lapse in insurance coverage. Any such lapse shall automatically revoke permission for sidewalk dining. In any event, the applicant shall be liable for all claims arising out of the operation of the dining services and shall defend, indemnify and hold the Village harmless from and against any such claims.

(6) Applicants may display menu signs only while there is sidewalk dining service and only as authorized by the Board of Architectural and Historic Review, which Board is hereby authorized and directed to establish a preapproved menu sign form, including size and display specifications, which applicants may display without obtaining a sign permit.

(7) Alcohol may only be served in conjunction with food that is otherwise available for purchase without alcohol. All businesses serving alcoholic beverages must be in compliance with all state laws and regulations, including those of the New York State Liquor Authority. Copies of permits shall be provided to the Village prior to service of alcoholic beverages.

(8) Sidewalk service may be provided in front of up to two adjoining businesses, i.e., one on either side of the applicant's premises, with the permission of those businesses and their landlords. Permission shall be given in writing, a copy of which shall be given to Village Hall before sidewalk service in front of an adjoining premises is provided. Permission may be withdrawn by the adjoining business or landlord at any time. The business or landlord withdrawing permission shall notify the Village, in writing, within one week of the withdrawal. Any adjoining business and landlord that gives such permission shall be covered by the applicant's insurance in the same way the Village is and at no less a coverage level. Confirmation of such coverage and notice of any lapse, etc., shall be provided to the Village in the same manner as such notice is made to the Village regarding coverage extended to the Village. Copies of all such notices shall also be given to the permitting businesses and landlords.

(9) The businesses with outdoor sidewalk dining shall take all reasonable steps to control littering and shall dispose of all trash as otherwise required and must clean the sidewalk, and all areas with debris and other garbage, at the time the tables are removed each evening.

(10) The businesses with outdoor sidewalk dining shall take all steps necessary to maintain safety and to immediately remedy any unsafe situation

(11) A Village police officer or Code Enforcement Officer may temporarily suspend sidewalk service at any time due to violations of this section, threats to public safety, disorderly conduct, noise, disruption of other business operations or violations of other Village codes or other laws or regulations. The police officer or Code Enforcement Officer may choose, but is not obligated, to allow sidewalk service to resume if he or she is satisfied that all violations have been remedied. An affected business may appeal a decision to suspend outdoor sidewalk dining to the Board of Trustees, which shall conduct an evidentiary hearing to determine whether to reinstate the permit or continue the suspension for a stated period of time.

(12) Outdoor sidewalk dining service shall be permitted no later than 10:00 p.m. weekdays and 12:00 midnight on Friday and Saturday nights. Tables and chairs and menu signs must be removed from the sidewalk no later than 10:30 p.m. on weekdays and 12:30 a.m. on Friday and Saturday nights. In the Neighborhood Business District, outdoor sidewalk dining shall cease no later than 9:00 p.m. except on Friday and Saturday nights when it shall cease no later than 10:00 p.m. In all districts, tables and chairs cannot be set up earlier than 1/2 hour before service begins.

(13) The courtyard area located between the stores located on the south side of Main Street and the building known as 24 Woodbine Avenue may also be used for outdoor dining, provided the written permission of the owner of the property on which tables are placed is obtained and other requirements of this section are complied with and an unobstructed pedestrian right-of-way of at least 36 inches is maintained between the rear entrances of the existing outdoor dining facilities and other ingress and egress points.

(14) The terms of this section and the right to provide sidewalk service shall be subservient to any regulation of or ruling by any superior jurisdiction, and the Village shall not be responsible for any disruption or termination of sidewalk service caused by any superior jurisdiction.

(15) No variances for parking or other permissions from the Zoning Board of Appeals shall be required for outdoor sidewalk dining in compliance with this section.

(16) Smoking is not permitted on any outside dining tables or within 20 feet of any outside tables.

(17) The premises on which the service is to be offered must have a valid certificate of occupancy or letter in lieu and a certificate of permitted use.

(18) Outdoor dining service shall be subject to the prohibitions set forth in § 306-11B of the Village Code.

(19) It is the intention of the Board that no variances from any of the dimensional and other requirements of this section be granted by the Board of Zoning Appeals as outdoor sidewalk dining involves the use of public property and/or right-of-way, and the Board intends to allow such use only if strictly in accordance with this section. Furthermore, the dimensional requirements are necessary for public safety and access for all persons, including those with disabilities, and the Board intends that all legal requirements for this access be complied with.

(20) The installation, use or maintenance of radios, speakers, televisions or like apparatus and live entertainment shall be prohibited in outdoor sidewalk dining areas.

(21) Notwithstanding any provisions of this section, outdoor dining facilities shall be in all respects compliant with all applicable provisions of the Americans with Disability Act of 1990 as amended from time to time.

B. Outdoor dining on private property, meaning that such dining is not located on a sidewalk or other public property or right-of-way, shall be permitted in the Central Business A and B Districts and in the Highway Business District, subject to compliance with the following:

- (1) All of the requirements for outdoor sidewalk dining shall be applicable and are hereby incorporated herein by reference thereto, except for Subsections A(2), (4), (6), (8) and (9).
- (2) The permit for outdoor dining on private property is a required permit for outdoor dining that is located on private property and not on a sidewalk or other public property or right-of-way. An eligible business may hold both permits provided they satisfy the requirements for each such permit.
- (3) Outdoor dining areas shall not be enclosed or maintained for year-round use unless all required building, zoning and other applicable permits for a permanent structure and/or use have first been obtained.
- (4) The installation, use or maintenance of radios, speakers, televisions or like apparatus and live entertainment shall be prohibited in outdoor dining areas, unless separately authorized by resolution of the Board of Trustees.
- (5) No variance shall be required from the Board of Zoning Appeals for outdoor dining in compliance with this section.
- (6) Applicants shall provide a survey for the premises for which the permit is requested showing all structures thereon, a sketch showing the proposed number of tables and chairs and the approximate area to be used for outside dining with a proposed seating plan for same.

C. Permit revocation.

- (1) The permit for outdoor sidewalk dining and outdoor dining may be revoked by the Board of Trustees as follows:
 - (a) Upon conviction, by plea or otherwise, of three separate violations of Chapter 200, Noise, of the Code of the Village of Northport, if the violations occur within any twelve-month period of time; or
 - (b) Upon conviction, by plea or otherwise, of two violations of selling or serving alcoholic beverages to minors, if the violations occur within any twelve-month period of time; or
 - (c) Upon conviction, by plea or otherwise, of two separate violations of the New York State Uniform Fire Prevention and Building Code, EN including but not limited to the absence of a valid public assembly permit and exceeding the maximum number of occupants permitted within the assembly space as established by the Code Compliance Director, if the violations occur within any twelve-month period of time, and for two separate violations of this section or because of a single violation of § 306-11B or for a threat to public safety.

(d) Failure to attend at least one annual meeting called by the Village regarding these code provisions and compliance with other requirements applicable to permit holders and restaurants generally.

(2) Nothing contained herein shall be construed to limit the right of the Village of Northport to pursue enforcement of this section by an action in law or equity and to recover the cost of attorneys' fees in any enforcement proceedings.

D. Revocation hearing.

(1) The Village Board may revoke a permit issued hereunder only after a public hearing on notice to the permit holder. Such notice shall contain the time, date and place of the public hearing and written notice of the charges. Service of the notice shall be deemed proper if personally delivered to the permit holder or delivered to the person in charge at the subject premises or mailed by certified mail, return receipt requested, to the last known address of the permit holder within 10 days of the public hearing. The permit holder may present testimony and question opposing witnesses during the hearing.

(2) Notice of revocation. In the event that a permit is revoked by the Village Board, notice of revocation shall be mailed to the permit holder by regular mail and certified mail. Such notice shall state, in writing, the reasons for the revocation.

(3) No permit shall be revoked under this section unless a resolution is passed by a concurring majority vote of the Village Board of Trustees. The decision of the Board shall be filed with the Village Clerk and becomes final upon such filing.

FOREGOING UNDERSTOOD AND AGREED TO:

Print name:

Title:

Business: